CEA ACTION PROPOSAL

Per California Code of Regulations, title 2, section 548.5, the following information will be posted to CalHR's Career Executive Assignment Action Proposals website for 30 calendar days when departments propose new CEA concepts or major revisions to existing CEA concepts. Presence of the department-submitted CEA Action Proposal information on CalHR's website does not indicate CalHR support for the proposal.

A. GENERAL INFORMATION

1. Date: 2023-02-17

2. Department: Department of State Hospitals

3. Organizational Placement (Division/Branch/Office Name)

Community Forensic Partnerships Division / Community Forensic Programs

4. CEA Position Title

Deputy Director, Community Forensic Partnerships Division

5. Summary of proposed position description and how it relates to the program's mission or purpose. (*2-3 sentences)*

The Deputy Director provides leadership to and is responsible for all aspects of oversight, management and supervision of the Community Forensic Partnerships Division. The incumbent is responsible for the formulation of policies and procedures related to the Conditional Release Program, Jail-Based Competency Treatment Programs the Admission, Evaluation and Stabilization Center, Community Based Restoration Program, Diversion and new Sub-Acute Capacity for Incompetent to Stand Trial patients program.

6. Reports to: (*Class Title/Level*)

Chief Deputy Director, Program Services

7. Relationship with Department Director (*Select one)*

☑ Member of department's Executive Management Team, and has frequent contact with director on a wide range of department-wide issues.

☐ Not a member of department's Executive Management Team but has frequent contact with the Executive Management Team on policy issues.

(*Explain*):

8. Organizational Level *(Select one)*

☐ 1st ☑ 2nd ☐ 3rd ☐ 4th ☐ 5th (mega departments only - 17,001+ allocated positions)

D. SUMMARY OF REQUEST (continued)

24. Who is doing the work now?

☐ High level civil service classification What classification?

☐ Existing CEA position

☐ Exempt appointee

☑ Other *(Explain in question 25.)*

25. What will happen to the existing position if this proposed CEA is established? (If applicable)

This new position is created to plan, implement, organize and oversee the IST treatment and strategies to significantly increase its footprint to serve a greater number of IST and state hospital patients in community-based, diversion and jail-based programs. These programs were under the Forensic Services Division, and policy and programmatic leadership is provided by the Deputy Director, Forensic Services Division. The magnitude of growth in new programs both in community and jail-based treatment programs and in forensic evaluation necessitated splitting the Forensic Services Division into two distinct divisions to ensure successful implementation and operation, and to reduce the risk of insufficient oversight over clinical treatment programs and forensic evaluation. This position is critical because the responsibility of the Deputy Director for the Forensic Services Division has grown to unsustainable levels and cannot absorb the continued growth in new programs.

This is a brand-new position to meet the needs associated with implementing new community and jail-based treatment programs in response to the growing number of individuals referred to DSH as IST. The existing position will remain as the Deputy Director, Forensic Services Division to provide policy and programmatic leadership over DSH's forensic evaluation programs.

B. SUMMARY OF REQUEST

9. What are the duties and responsibilities of the CEA position? Be specific and provide examples.

This position leads the statewide effort to develop and implement all alternative and outpatient treatment programs for Department of State Hospital (DSH) patient commitments, with particular emphasis on the Felony Incompetent to Stand Trial (IST) population. These programs deliver comprehensive treatment, housing and supports for DSH patients placed in inpatient and outpatient community settings and not within DSH's five inpatient state psychiatric hospitals. Under the general direction of the Chief Deputy Director of Program Services, the Deputy Director provides leadership to and has primary responsibility for all aspects of oversight, management and supervision of the Community Forensic Partnerships Division. The position will be responsible for the formulation of policies and procedures related to the operation and expansion of the statewide Conditional Release Program (CONREP); development and expansion of jail-based treatment services in partnership with county sheriff departments across the state; development and expansion of community-based restoration and pre-trial felony mental health diversion programs in partnership with county behavioral health departments; development and implementation of sub-acute facility capacity in partnership with county and private providers.

In addition to existing programs, this position is responsible for the development of new strategies and associated policies to expand the department's service footprint to support the growing number of Felony IST patients referred to DSH. This position will lead policy development and program direction for the development of new and existing programs and processes and oversee the provision of training and technical assistance to meet the needs of the counties and treatment providers. This position will also ensure that program performance data is collected, and outcomes are tracked and evaluated. This position will also establish and oversee continuous improvement efforts of programs including implementing quality assurance processes to ensure timely and appropriate quality care is provided to patients served in these programs.

This position serves as a subject matter expert on all IST and CONREP programs that operate external to the state hospital system. The position will be responsible for overseeing the development of bi-annual caseload estimates for the Governor's Budget and May Revision, updating budgeted funding levels, and testifying to the Legislature on DSH's community and jail-based programs and services related to ISTs. Additionally, this position will manage timelines for counties and service providers initiating services to patients and facilitate and/or participate in stakeholder meetings to include but not limited to county behavioral health, justice and court partners, sheriffs, probation, state level partners, and advocates. This position will also collaborate and coordinate development and oversight of programs with other DSH deputy directors responsible for overall legal and care coordination efforts of the DSH population ordered to participate in the community and jail-based treatment programs.

B. SUMMARY OF REQUEST (continued)

10. How critical is the program's mission or purpose to the department's mission as a whole? Include a description of the degree to which the program is critical to the department's mission.

- ☑ Program is directly related to department's primary mission and is critical to achieving the department's goals.
- ☐ Program is indirectly related to department's primary mission.
- ☐ Program plays a supporting role in achieving department's mission (i.e., budget, personnel, other admin functions).

Description:

DSH's mission is to provide evaluation and treatment in a safe and responsible manner, by leading innovation and excellence across a continuum of care and settings. As part of its mission, the department provides restoration of competency services to individuals who have been arrested for felony crimes and found IST and referred to the department by county courts. Additionally, as part of its mission, DSH is responsible for operating a statewide system of community-based services to facilitate placement opportunities for patients to transition from an inpatient setting in the state hospitals to a less restrictive setting in their home community.

In addition to providing IST restoration of competency services in four of its five state hospitals, DSH provides IST services in jail-based competency treatment programs in partnership with county Sheriffs currently in 21 counties operating 445 beds across the state), and in a 515-bed community-based restoration program in partnership with Los Angeles County which is set to expand to multiple other counties across the state. Additionally, DSH currently partners with 24 counties to provide diversion opportunities for individuals found IST which has also been authorized to expand to all counties across the state. In total, these programs are expected to expand to 5,000 beds across many counties across the state over the next four years (2022-23 IST Solutions Budget Proposal). With respect to DSH's CONREP, DSH partners with multiple counties and private providers to provide services statewide to approximately 700 patients under the following legal commitments: IST, Not Guilty by Reason of Insanity, Offenders with Mental Health Disorder, and Sexually Violent Predator. With the exception of the IST services provided in the four state hospitals, this proposed CEA directly oversees the policy and programmatic direction of all community and jail-based patient treatment programs.

Further, DSH was recently authorized to develop and implement new IMD/Sub-Acute programs across the state to create additional capacity and treatment options for IST individuals referred to DSH. Additionally, the CONREP program is authorized to expand its continuum of care necessitating the creation of new levels of care and several hundred new beds dedicated to support DSH patients who need a higher level of care in the community than is currently offered in the CONREP program. The implementation of these new treatment beds and services are under the direct responsibility of the proposed CEA.

This proposed CEA will oversee a newly formed division, the Community Forensic Partnerships Division, within DSH and lead efforts to develop and implement the additional beds and treatment capacity needed to meet a court mandate related to litigation regarding the timely access to treatment for individuals found IST and committed to DSH.

B. SUMMARY OF REQUEST (continued)

11. Describe what has changed that makes this request necessary. Explain how the change justifies the current request. Be specific and provide examples.

See attached.

C. ROLE IN POLICY INFLUENCE

12. Provide 3-5 specific examples of policy areas over which the CEA position will be the principle policy maker. Each example should cite a policy that would have an identifiable impact. Include a description of the statewide impact of the assigned program.

This position will be responsible for policies that support the care and treatment of DSH patients in community and jail-based treatment programs including the CONREP, Community-Based Restoration, Diversion, Jail Based Competency Treatment, IMD/Sub-Acute facilities, and Early Access to Treatment and Stabilization services. Collectively, these programs provide treatment in jails, community locked and unlocked facilities, and residential settings across the state. Examples of policies this position would be the principal policy maker include, but is not limited to:

1) Mental health treatment and wrap around services for DSH patients treated in the community. As the principal policy maker over statewide mental health and competency treatment programs for the felony incompetent to stand trial, not guilty by reason of insanity and offenders with mental health populations delivered in the communities and within the county jails, the impact to the quality and effectiveness of care is significant and presents a high degree of consequence of error. Currently jail-based programs exist in more than 30 counties across the state and community based programs cover every county in the state with treatment beds anticipated to grow to approximately 5000 over the next four years. This position will set policy standards to ensure the provision of services and care align with best practices and up to date research for treatment and wrap around services for a justice-involved behavioral health population. Additionally, polices for for improved access to treatment will be established including transitional services to ensure patients are matched to the appropriate level of care in the least restrictive setting that meet the comprehensive treatment and housing needs of the patients while focused on mitigating risk of decompensation and recidivism. Further, policy standards will be set to ensure integration of the multiple statewide programs and levels of care that currently exist and/or are in development to support linkages between state and county treatment providers, patient continuity of care and efficient bed utilization.

2) Adverse events and treatment outcomes for the jail and community-based treatment providers. With the significant and continuing growth in a diverse portfolio of forensic mental health treatment programs and service providers, this position will set the standards and policy framework for risk management and response to critical and adverse incidents involving behavioral challenges such as aggression and self-harm. Additionally, the diversity in treatment options for DSH patients in jail and community based treatment settings requires development and ongoing monitoring of performance and outcomes measures through a both a public safety and health equity lens. Policy development in this area will require engagement with multiple internal and external stakeholders to establish benchmarks/metrics and service level targets.

3) Balancing public safety and treatment needs of the DSH patients, including sexually violent predators, in the community. This policy area is focused on the goal of ensuring public protection in California communities while providing effective and standardized outpatient treatment system in a changing landscape of new and modification of existing laws including how and where patients can be placed in the community when court-ordered to receive treatment. Increased public interest and legislative scrutiny of programs in the area of SVP outpatient services has highlighted disparities in the existing housing, supervision and monitoring policy framework established. New and updated policies will require stakeholder engagement and development of education and technical assistance for the public, justice partners (courts, public defender, district attorney, law enforcement), patients and family members.

With the funding provided in the 2022-23 budget, these programs will be expanding to house and treat thousands of DSH patient in community settings. DSH's patients are individuals with serious behavioral health conditions who have been accused or found guilty of committing felony crimes associated with their behavioral health conditions or conditions of homelessness. They require significant treatment and supports to maintain stabilization of the symptoms of their mental illness and to live safely in the community. The policy areas of this CEA have significant statewide public safety impacts and will impact the operations of county sheriff's, county behavioral health directors, the courts, public defenders, district attorneys, and other community treatment and housing providers as it relates to the care and treatment provided to patients committed to DSH. Significant coordination and collaboration with all of these partners will be expected of this CEA.

C. ROLE IN POLICY INFLUENCE (continued)

13. What is the CEA position's scope and nature of decision-making authority?

The proposed CEA position will serve as a Deputy Director, providing leadership to and is responsible for all aspects of oversight, management and supervision of the Community Forensic Partnerships Division. The position will be responsible for the formulation of policies and procedures related to the Conditional Release Program; Jail-Based Competency Treatment Programs the Admission, Evaluation and Stabilization Center, Community Based Restoration Program, Diversion and new Sub-Acute Capacity for Incompetent to Stand Trial patients program. These programs serve thousands of DSH patients annually in the community and jail-based programs across the state. This CEA will serve as a Deputy Director, thus has the highest level of decision-making authority, under the general direction of the Chief Deputy Director and Director. This CEA will represent the department and the Director/Chief Deputy Director with high-level stakeholders, including judges, district attorney's, public defenders, county executives, county behavioral health directors, and the Legislature. This CEA may also be required to testify in court regarding the Community Forensic Partnership Division programs and services.

14. Will the CEA position be developing and implementing new policy, or interpreting and implementing existing policy? How?

The position will both develop and implement new policy as well as interpret and implement existing policy. As a program/division deputy director, the position is responsible for policy development, interpretation, and implementation regarding the specific subject matter areas and programs for which they are responsible including the community-based restoration programs, mental health diversion, jail-based competency treatment programs, CONREP, CONREP-SVP, IMD/Sub-Acute programs and implementation of the IST solutions and strategies earmarked for use of the funds set aside in the budget.

ATTACHMENT - Community Forensic Partnership Division

23. Describe what has changed that makes this request necessary? Explain how the change justifies the current request. Be specific and provide examples.

For over a decade, DSH has experienced a significant and persistently increasing number of referrals from county courts of individuals found incompetent to stand trial requiring restoration of competency services. In response, DSH has been working to increase its capacity to treat ISTs in DSH hospitals, expanded or implemented new programs for jail- and community-based restoration of competency, implemented systems improvements, and implemented diversion programs in partnership with counties. Despite the efforts, the growth in referrals has outpaced DSH's efforts and DSH has experienced growing wait lists and wait times for restoration of competency services. In 2015, the American Civil Liberties Union sued DSH regarding the length of time individuals found IST were waiting in jail for transfer to a DSH restoration of competency program (*Stiavetti v. Clendenin*). In 2017, the Alameda Superior Court ruled that DSH must initiate restoration of competency services for individuals found IST within 28 days of receipt of the patient's commitment. DSH appealed the decision and ultimately the appellate court upheld the superior court's decision. Subsequently, DSH appealed to the California Supreme Court and the court declined to hear the petition in August 2021. As such, the original court order is now final and DSH must come into compliance with court-order timelines to deliver substantive competency restoration services to all IST defendants committed to DSH. In December 2021, the Alameda Superior Court established the following timeline for DSH to come into compliance with the 28 days:

- Within 12 months of August 27, 2021, the DSH and the DDS must commence substantive services for all IST defendants within 60 days from the transfer of responsibility date.
- Within 18 months of August 27, 2021, the DSH and the DDS must commence substantive services for all IST defendants within 45 days from the transfer of responsibility date.
- Within 24 months of August 27, 2021, the DSH and the DDS must commence substantive services for all 1ST defendants within 33 days from the transfer of responsibility date.
- Within 30 months of August 27, 2021, the DSH and the DDS must commence substantive services for all IST defendants within 28 days from the transfer of responsibility date.

With the exception of increased bed capacity within the state hospitals, the implementation and management of all new and existing outpatient community-based and jail-based treatment programs for IST patients has been the responsibility of the Forensic Services Division. In addition to these IST treatment programs; the Forensic Services Division is also responsible for operating the statewide CONREP program which is the outpatient treatment program for the state hospital system. Moreover, the division carries out DSH's statutory responsibility for conducting forensic evaluations of

inmates referred to DSH by the California Department of Corrections and Rehabilitation (CDCR) to determine if the referred individuals meet the legal criteria to be committed to DSH as either an Offender with Mental Health Disorder or Sexually Violent Predator after paroled from CDCR.

Since FY 2016-17, the Forensic Services division has steadily grown in size and scope of forensic treatment and evaluation programs with the majority of its growth beginning in FY 2018-19 with the implementation of a new mental health diversion program for pre-trial felony mental health patients in partnership with counties across the state, and a new 150-bed felony IST community-based restoration program in Los Angeles County. This expansion of services and programs was a direct response to DSH needing to meet the court-ordered timelines addressed above. The Budget Act of 2021 appropriated over $300M to DSH toward the expansion of 1) community-based restoration programs in Los Angeles County and up to 13 additional counties, 2) diversion programs to nearly every county across the state; and 3) jail-based competency treatment programs. Additionally, DSH received authority to establish new programs for sub-acute capacity in the community that are anticipated to result in hundreds of new treatment beds across the state; and establish a new statewide forensic program to re-evaluate IST individuals referred to DSH and awaiting admission to a DSH treatment program for 60 days or more after commitment. Further DSH was authorized to expand the continuum of care for the CONREP program including the establishment of a new 78-bed step down IMD program, 180-bed forensic assertive community treatment (FACT) level of care across three regions and 75 additional beds in other IMDs or adult residential facilities to support community transition opportunities for state hospital patients.

As part of this major program expansion, multiple new leadership (CEA and managerial) positions, including the proposed CEA, were authorized to support these critical new programs. The purpose of establishing the proposed CEA B position is explicitly to split the Forensic Services Division to form two separate divisions as follows:

- Community Forensic Partnership Division (CFPD)– responsible for all direct treatment programs including the statewide CONREP program (serves approximately 650 clients annually and set to expand by over 300 new beds); jail based competency treatment programs (445 beds in 21 counties with authority to expand by another 6 counties and over 50 additional beds over the next year); community based restoration, expanded from 150 to 515 beds in the last year with another 252 beds across approximately 13 counties; pre-trial felony mental health diversion program currently in process of implementation across 24 counties with another 6 counties coming on board in the coming months severing approximately 1,000 clients. Additionally, it is anticipated the 2022-23 Budget will include funding to expand the community-based restoration and diversion programs to 5,000 beds and to authorize DSH to implement early access treatment services to ISTs while they are in jail but before they are transferred to a DSH jail or community-based program or a state hospital for services.

- Forensic Services Division (FSD) – responsible for all pre-DSH forensic evaluations including inmates referred by CDCR to determine if legal criteria is met to be committed to DSH as an Offender with Mental Health Disorder or Sexually Violent Predator. Referrals are received statewide from the majority of CDCR institutions and on annual basis, 2000-3000 evaluations are completed, requiring case management and meeting statutory timelines to ensure public safety. Additionally, FSD is responsible for implementing and overseeing the new IST Re-Evaluation services program authorized in the FY 2021-22 budget. This new program requires coordination with county sheriffs and jails across the state to perform an estimated 2,000-3,000 evaluations of IST individuals referred to DSH while waiting in jail and prior to admission to a treatment program.